July 6, 2016

To: The California Sustainable Freight Plan Interagency Workgroup

Electronic submittal via: www.casustainablefreight.org

RE: Comments on Draft California Sustainable Freight Action Plan

The California Trucking Association ("CTA"), on behalf of its over 1,500 member companies, appreciates this opportunity to comment on the Draft California Sustainable Freight Action Plan (the "Plan"). The freight industry is a multi-modal, highly complex and intricately interconnected linchpin of California's overall economy.

As you know, California's freight industry plays a key role in California's prosperity; it accounts for one-third of the State's economy and jobs, with freight-dependent industries accounting for over $700 billion in revenue and over 5 million jobs.

While CTA supports the broad economic and environmental goals of the Plan, actual Plan implementation will require extremely careful and thoughtful preparation and significant public financial support. We strongly urge the agencies implementing the Plan to ensure that every proposal is based on both sound scientific and engineering analysis and is practical and cost-effective.

We have appreciated the collaborative nature of the process undertaken to produce this discussion draft and intend to continue to provide input as the document is refined and the recommendations are implemented.

We would like to strongly support the comments of the industry coalition letter (attached) and offer the following, additional, comments.

General Comments

The CTA recommends the interagency take the following actions:

- **Refocus and Support Economic Competitiveness Elements of Plan**
- **Strike Facility Based Measures**
- **Better Articulate Commercialization Pathway**

Refocus and Support Economic Competitiveness Elements of Plan

Since last summer's announcement of Governor Brown's Executive Order B-32-05, the trucking industry has supported the call for a balanced, holistic view of the development and deployment of zero and near-zero emission freight equipment with the dual imperative of increasing the economic competitiveness of the State's freight industry.

Despite the key role that the freight industry plays in California's economy, many elements of the industry operate on razor thin margins and are highly susceptible to economic cycles. Requiring California's freight businesses to make significant investments or meet burdensome regulatory standards that are not imposed in the rest of the country puts the state at a competitive disadvantage that could send a ripple effect throughout our economy and may cause the skilled workforce our industry requires to seek opportunities elsewhere.

However, throughout the year-long process of developing this discussion draft, it has been clear that the State's work towards understanding the economic impact of its actions of the competitiveness of the State's businesses lagged far behind its work in paving the way for the environmental aspects of the plan.

The interagency workgroup should ensure that future drafts of the Sustainable Freight Action Plan and the subsequent work to implement the plan refocus and support the Governor's initial call for a clear target to increase the competitiveness of the State's freight system and the identification of state policies, programs and investments to achieve the target.

Specifically, we recommend the following:

- **(Page 7)** Regarding the completion of economic analyses, existing statute does require agencies to perform an economic impact analysis as part of the regulatory development process, pursuant to the Administrative Procedures Act. However, these analyses do not typically address the specific question of competitiveness. For instance, the Air Resources Board's recent sixty-eight page economic impact analysis of the State's Mobile Source Strategy[1] contains zero references to competitiveness within the analysis of the proposed freight measures. The interagency workgroup, as suggested in Agency Action #6 (Page 18), should focus on developing better tools and modeling to assess the impact of its actions on the competitiveness of the businesses located within the state.
- **(Appendix B**) Executive Order B-32-15 called for a clear target to "increase competitiveness of the State's freight system". Rather than addressing competitiveness, the current target centers around "economic growth" and is not expressed as a measurable, quantifiable target. Also, it has not gone unnoticed by the business community that this target is the only one of the three which is not

[1] http://www.arb.ca.gov/planning/sip/2016sip/2016mobsrc_appA.pdf

further elaborated upon and described in Appendix B. The interagency workgroup, as called for in Agency Action #6, should immediately convene stakeholders to work to identify an appropriate, quantifiable target for competitiveness and the necessary date, tools and model needed to assess the impact of future actions on competitiveness and track our progress towards achieving the target.

- **(Appendix C)** Amend Agency Action #9 or include an additional Agency Action which seeks to avoid stranded assets and provide regulatory certainty by establishing a reasonable timeframe under which businesses can recoup their investments in CARB/EPA certified technology and infrastructure. Providing this certainty will give businesses the confidence to invest in the cleanest available technologies despite the state's multiple and at times conflicting environmental policy drivers.

By placing a high priority on understanding the impact of state actions on competitiveness, allocating the necessary resources to the implementing agencies, avoiding stranded assets, and generally following through on Agency Action #6, the State can send a positive signal to the private sector that it is serious about attracting and retaining investment in the State's freight system.

Strike Facility Based Measures

For the reasons articulated in the industry coalition letter, we broadly oppose any proposed facility based regulations[2], whether labeled as "facility emission performance targets" or "facility emission caps". Specifically, as applied to warehouses and distribution centers, this concept would represent an unprecedented expansion of freight industry regulation and further exacerbate the State's ongoing issues with providing regulated parties a level playing field through adequate enforcement.

With hundreds of transactions occurring daily at tens of thousands of distribution centers/warehouses throughout California and local and interstate trucks potentially visiting multiple covered facilities with differing requirements throughout the day, facility based measures would represent an unworkable, unenforceable regulatory sprawl.

For those facilities which did comply, if performance targets or caps exceed the pace of technology development to provide adequate mitigation options, these targets or caps could become de facto limits on throughput or have the unintended consequence of pushing freight facilities further away from population centers within California, thereby increasing vehicle miles traveled and associated emissions.

[2] Page C-41 *Freight Hub Data Collection.* "The information collected will support planning efforts for source/sector specific rulemakings, incentives, enforceable agreements, freight facility performance targets, or other approaches"

Furthermore, facility based rules may preclude the use of incentive funding which will be a key factor in the initial deployment of electric-drive capable technologies.

We hope that it goes without saying that this proposed measure would negatively impact the competitiveness of the state's freight system and greatly harm its ability to draw investment capital into the construction and ongoing operation of freight facilities.

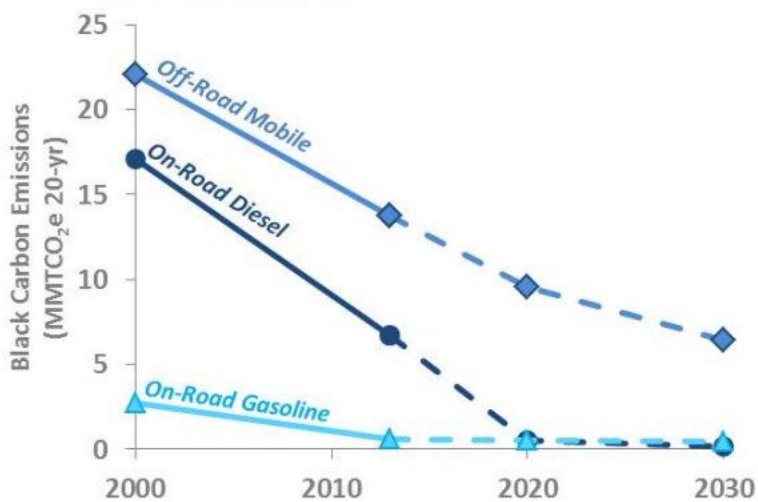
Additionally, we do not believe this concept properly recognizes existing and ongoing reductions in near-source health risk from heavy-duty trucks. For instance, ARB's own 2015 evaluation of diesel particulate filters[3] states:

> Our analysis indicates PM filters are effective and are operating as designed. Testing programs conducted by the ARB and many other organizations all demonstrate that properly functioning PM filters **virtually eliminate PM** from truck exhaust and that the majority of PM filters in operation are undamaged and in good condition.

Similarly, ARB recently revised it's assumed emission factors for truck exhaust to reflect a nearly 90% greater reduction in PM2.5 than was originally estimated[4], bringing the total reduction in PM over the past 25 years to approximately 99.9%.

This reduction was reflected in the recent Black Carbon inventory compiled by the ARB[5].

Figure 2. Black Carbon Emissions from On-Road and Off-Road Mobile Sources with Existing Measures.



For ozone, our initial analysis of ARB's Mobile Source Strategy[6] indicates that reductions of NOx emissions from trucks and buses are likely to exceed 80% in the 2031 timeframe from

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[3] http://www.arb.ca.gov/msprog/onrdiesel/documents/DPFEval.pdf

[4] http://www.arb.ca.gov/msei/msab_oct_workshop_10_07_2013_final.pdf
[5] http://www.arb.ca.gov/cc/shortlived/meetings/04112016/appendixa.pdf
[6] http://www.arb.ca.gov/planning/sip/2016sip/2016mobsrc.pdf

current levels due to the benefit of existing rules, proposed lower manufacturer emission standard and proposed programs to reduce in-use emissions from deterioration of emission control systems. As the fleet turns over to the newer engines, the emission reduction benefit could be as high as 95+% compared to current levels.

These extensive emission reductions, and correlated reductions in near-source health risk, will occur without resorting to a massive expansion of the California regulatory regime.

Accordingly, we do not believe the call for expanded freight facility regulation is directionally sound from a policy standpoint and runs counter to maintaining the balance between the environmental and economic goals of the Executive Order.

Better Articulate Commercialization Pathway

While the plan sets a target for the State to deploy 100,000 zero-emission capable pieces of equipment and vehicles by 2030, it fails to articulate how it foresees the necessary development of pre-commercial and, in many cases, economically infeasible technologies within that timeframe. In the case of the agency actions which attempt to address this quandary, such as the ARB's proposed "Last Mile Delivery" regulation, the agency simply states it will mandate end-users to purchase technology which it has not actually required the manufacture or sale of, for which it has not promulgated reasonable warranty or performance requirements and for which it cannot accurately predict upfront or ongoing maintenance and operations cost for vehicles and supporting infrastructure.

The CTA has long been a fuel-neutral organization. It has many members who are actively participating in the development, piloting and demonstration of alternative fuel and electric-drive vehicles and would like to see these technologies become fully commercialized and cost-competitive with traditional internal combustion engines and fuels.

Accordingly, we would like to engage the ARB in further discussion about better articulating the commercialization pathway for these vehicles. We have no evidence to consider that would suggest that end-user purchase mandates are the most appropriate pathway to true commercialization. Broadly, we would ask the agencies to consider the following points regarding commercialization of electric-drive capable vehicles:

- Continued focus on technology neutral emission standards for manufacturers to spur innovation, including manufacturer credits.
- Within any given regulatory designation (e.g. Last Mile, Drayage, Short Haul, etc.), recognize that a diverse set of duty cycles and vehicles characteristics (e.g. weight,

range, cargo capacity) exist. Technological readiness for one vehicle type or duty cycle does not necessarily translate to other duty cycles or vehicles types within the same designation.

- Continued focus on determining the marginal cost of technology pathways and prioritizing the most cost-effective approaches.
- Technology approaches should, in the long-term, result in comparably priced product compared to a conventionally-powered vehicle.
- Because any significant fleet modification to electric-drive capable vehicles will require significant public funding support, it is critically important that the agencies either make it clear that funding availability is not affected by the adoption of end-user mandates or consider different implementation mechanisms that do not preclude the use of incentives.
- Avoid creating market incentives for delivery service users to select providers who are not subject to zero emission technology requirements. Such a market influence could be created if the agencies require only a subset of fleet operators to bear the costs and burdens of fleet modification while exempting other operators.
- Where there is a near-term differential in up-front cost, but savings on fuel and maintenance of vehicles, the State should work with stakeholders to establish a reasonable return on investment period through assumptions solidly based on real-world operations.
- The useful life of the vehicle should be similar to existing vehicles and expectations about reasonable useful life prior retrofit or retirement mandates should be similarly established.
- Operations and maintenance costs should be, at least, comparable to existing commercial vehicles.
- Vehicles must be certified to meet all State and Federal requirements.
- Warranty and maintenance agreements meet existing standards, including those commonly negotiated by private fleets as part of large purchase orders.
- Manufacturers should be required to demonstrate the necessary resources and financial stability to meet warranty terms and maintenance requirements (parts and service) throughout the useful life of the vehicle.

Similarly, the plan should better articulate the role it foresees both public and investor-owned utilities and the Public Utilities Commission playing in the development of fueling and charging infrastructure, developing rate structures conducive to broader electric drive deployment in the freight setting, and innovative approaches to defraying infrastructure costs borne by fleets.

Appendix G of the Plan correctly recognizes that the dramatic growth of e-commerce is rapidly changing the freight industry. A 57% projected increase in on-line sale over a 4-year period underscores the trends that are realigning much of the delivery business, including particularly Last Mile delivery services.

Unlike large projects involving major freight corridor infrastructure investments and upgrading of heavy duty vehicle fleets, Last Mile delivery must be approached on a more localized scale, as duty cycle demands vary greatly dependent on the urban or rural character of the communities these fleets serve. It will also be critically important to consider operational requirements for Last Mile fleet operators, including ongoing maintenance of vehicles and infrastructure, necessary adjustments to the geographic distribution of facilities and support services, variances in utility rate structures and employee training. Each of these considerations will require careful planning of the implementation schedule, a task that will be especially important and difficult in light of the rapidly changing market that Last Mile delivery serves.

Conclusion

Thank you for the opportunity to comment on this plan. We look forward to working with the agencies now and in future years on finalizing and implementing the plan.

If you have any questions, please contact Chris Shimoda at cshimoda@caltrux.org or (916)373-3504.

Thank You,

Eric Sauer, Vice President of Policy and Government Relations

July 6, 2016

To: California Air Resources Board, California Department of Transportation, California Energy Commission, California Environmental Protection Agency, California Natural Resources Agency, California State Transportation Agency, Governor's Office of Business and Economic Development

SUBMITTED ONLINE (www.casustainablefreight.org)

Re: Goods Movement Industry Comments on the Draft Sustainable Freight Action Plan

The undersigned coalition of major freight-dependent and trade-related businesses and organizations offer the following comment on the Draft California Sustainable Freight Action Plan.

Review of Competitiveness Workgroup Priorities

On April 14th, our coalition sent the attached letter to memorialize the five competiveness principles the Competitiveness Workgroup discussed with you at an April 1st meeting in San Francisco. Those principles are:

1. **The Sustainable Freight Action Plan should strike all reference to, and affirmatively reject, a facility emissions cap.**

While not specifically called for in the Draft Sustainable Freight Action Plan, CARB's Executive Officer recently stated that:

> "One of the options we [CARB] will further discuss with stakeholders is an emissions performance target for freight facilities like railyards and ports that cover all mobile emission sources serving the facility. With this approach, the owner of the facility or equipment will have the flexibility to determine the best way to meet the emissions target. This is in contrast to a potential approach where several new measures are developed to meet the same target, thereby reducing on-site flexibility for the owner on how best to meet the target.
>
> This type of facility performance target could be achieved through regulation, through enforceable agreements and incentives, or through a combination of approaches. In a prior ARB document, we labeled this concept as a facility emissions cap, unfortunately."[1]

Our coalition strongly rejects the characterization that either Facility Emission Cap or Facility Performance Target would provide regulatory "flexibility." In fact, these concepts would represent an unprecedented expansion of California's regulation of the freight industry at a time when California's freight industry is already spending billions of dollars to reduce key pollutants by as much as 99%.

The wording conflicts with the Governor's Executive Order and the Draft Sustainable Freight Action Plan and, for that reason, has been strongly opposed by freight-dependent industries throughout the State. Such a regulatory approach would raise serious competitiveness concerns as regions and states without a cap will have a competitive advantage over those that do. The rate of technology advancement may also result in a facility cap becoming a de facto cap on economic growth. If technology advancement proceeds more slowly than the state anticipates, a facilities cap will become a straitjacket rather than providing flexibility as posited by Mr. Corey.

It may also lead to decreases in efficiency and increases in emissions as goods movement facilities locate further away from population centers to avoid a cap. Longer, less efficient, moves would burn more fuel and increase emissions. Such an approach may even result in the proliferation of warehousing simply to avoid complex compliance options needed to address a facility emissions cap, countering the current industry trend to consolidate operations in order to improve efficiency. Further, such an approach would create an undue burden on third-party logistics providers (3PLs) that often have no operational fleet control. Often providing dynamic warehousing, 3PLs provide a key node in the logistics network. Without operational control, a facility cap is essentially unworkable for a large portion of the logistics network. Already major retailers avoid California for much of their logistics services; this approach could also drive 3PLs to neighboring states.

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[1] Statement of Richard Corey at the Assembly Transportation Committee Hearing. June 20, 2016. See: http://calchannel.granicus.com/MediaPlayer.php?view_id=7&clip_id=3823

The Sustainable Freight Action Plan should affirmatively reject a facility emissions cap, including any data collection efforts, and focus instead on collaboration to bring about advanced, zero and near-zero emission technology.

2. **The State must partner with industry to provide funding, financing, or incentives for investments in ZE/NZE equipment and infrastructure that will lower greenhouse gases and/or lower criteria pollutants while simultaneously resulting in higher capacity operations, higher operational efficiency, and improved competitiveness of California's freight system.**

While we appreciate the call for future stakeholder work to determine commercially viable strategies, the State is already suggesting it will mandate non-commercial technologies in the plan [for example, see Appendix C, Page C-53]. We believe agencies and stakeholders must agree on a definition of commercial viability before any state agencies require the use of any new technology.

3. **Improve the California Environmental Quality Act (CEQA) so that California infrastructure projects can be completed in a timely manner and California's freight system can remain competitive, without compromising environmental quality.**

We look forward to further discussions with the Administration along with our federal and regional partners regarding how to streamline project permitting.

4. **Identify public sources of long-term, dedicated freight infrastructure funding.**

We continue to work towards solutions to bring long-term, dedicated revenue to California's freight infrastructure.

5. **Formally direct the Governor's Office of Business and Economic Development (GO-Biz) and industry to continue to work together after the Sustainable Freight Action Plan is submitted to the Governor in order to ensure "No Harm" and to monitor progress toward increasing competitiveness.**

Because the economic growth target, unlike the other two targets, does not contain a quantifiable goal, we highlight the importance of proposed State Agency Action #6:

6. *Convene stakeholders to identify and deploy strategies that consider commercial viability and promote the competitiveness of California's statewide and local freight transport system, develop tools and share data to analyze benefits and impacts of actions, including costs, and develop and implement a quantitative metric to track progress.*

It is imperative that this plan send a positive signal to cargo owners and other supply chain interests about the viability of investing their resources in California. These interests have more options than ever before which will challenge California's competitiveness as a global trade gateway.

Therefore, the State must put forth a serious effort to understand both how the regulatory strategies proposed in the CSFAP will impact competitiveness *(Specifically, the cost of each regulation, who will pay, and impact to the economy, competitiveness, discretionary cargo, etc.)* as well as how the state should proactively pursue the goal of increasing the competitiveness of the State's freight system through investments in more efficient infrastructure and regulatory or permitting process improvements.

Accordingly, we state our **strong** support for and look forward to participating in the workgroup on competitiveness as called for by State Agency Action #6 and believe that this work should be supported appropriately by the State budget and should begin as soon as possible. The undersigned industries are committed to ensuring that the State has the necessary expertise to understand the role its public policy plays in driving business to or from the State.

Executive Order Calls for Increased Competitiveness, Not Economic Growth

While we expect that metrics to measure competitiveness will be developed in the future, the State target for competitiveness should continue to reflect the original charge of the Executive Order, which was to "increase the competitiveness" of the State's freight sector, not to simply allow for economic growth. This small but important distinction should be spelled out in the Plan and the Plan should recognize that freight dependent industries compete for investment and business on a global scale and that the State's policy focus is to help the industry remain competitive in the global market. It is important that the "Vision for a Sustainable Freight Transport System" be revised to include the "increase competitiveness" element of the Executive Order, and we therefore suggest the following revision:

> "Utilize a partnership of federal, State, regional, local, and industry stakeholders to move freight in California on a modern, safe, integrated, and resilient system that continues to support California's economy and livability, <u>and grows the economic competitiveness of California's freight sector</u>. Transporting freight reliably and efficiently by zero-emission equipment everywhere feasible, and near-zero emission equipment powered by clean, low-carbon renewable fuels everywhere else."

Land Use

There are various references throughout the Plan to concepts that encroach into local land use decisions. (For example Appendix C, pages C-13-15). Land use is a complex process that is legally in the control of cities and counties. Their authority has been repeatedly upheld in statutory and case law, and must not be infringed upon. Additionally, any such encroachment could result in far reaching unintended consequences.

Cities and counties prepare general plans and zoning, which is itself a lengthy legal process with extensive interaction with the communities they serve and the property owners. The entire process is focused on what type of land uses are compatible, needed, and desired for a balanced community that will meet the local and regional needs in terms of housing, jobs and services. One size does not fit all. The general plan sets out the areas where various types of developments will be located and their relationship to each other. It is thoroughly analyzed and that analysis includes an environmental impact report laying out what impacts may exist as a result of the plan. Additionally, state laws require the general plans, and zoning that is consistent with the general plan, to be updated periodically, so there is always the opportunity to update them should the people in the community feel changes need to be met to protect their quality of life.

Yet, this is actually only the beginning. Once the overall concept is created and approved by the elected representatives, then a second round of review occurs when any project is proposed to be built. That project also has an environmental review to see what impacts that particular project might create. If there are significant impacts, the environmental impact report includes mitigation measures. The siting, design and operation of the project is all considered by the community, interested parties and the local elected officials. This is also a very public process and it is well known the people in the community make their concerns known.

All this does not occur in a vacuum. In addition to CEQA, SB 375 already requires the development of Sustainable Communities Strategies (SCS) that not only impacts local planning decisions, but the Regional Transportation Plans and local Air Quality Management Plan. The SCS is also updated every few years. So, the idea of developing sustainable communities is a planning tool that is already imbedded in the current planning efforts. In light of all the above, it is difficult to understand what another layer of regulations, a "siting handbooks," or any data collection would add to a well developed system governing land uses.

Zero-Emission Freight Targets

We understand that staff has received comments suggesting that the target to deploy 100,000 zero-emission pieces of equipment by 2030 is too low.

First, our understanding based on numerous discussions with the interagency workgroup is that the freight targets are meant to be aspirational goals for 2030, not hard regulatory targets. As such, there has not been an extensive review of the economic or technological feasibility of any of the metrics to date.

However, we believe further analysis of the 100,000 zero-emission capable pieces of equipment metric would reveal that reaching such a goal with the technology available for deployment today is unlikely, no matter what the cost borne by industry and the State. Therefore, we do not believe the aspirational goals should be adjusted unless a more rigorous review of the technological and economic feasibility or reaching a new target is conducted.

Further, it is important that CARB specifically delineate the costs to various transportation sectors in making adjustments to zero-emission technology. This should include:

- identification of "stranded assets" value owners have incurred in already upgrading diesel technology;

- added cost to transfer to zero-emission technology, and;
- the value lost on diesel vehicles that will need to be sold or retired to adjust for the new vehicle utilization.
- the cost for renewable fuel technologies and appropriate consideration of incentive and compensation opportunities for infrastructure development.

Efficiency Target

Many members of our coalition do not feel that the freight efficiency metric is reflective of efficiency as the industry thinks about it. We encourage the efficiency workgroup, as called for in proposed State Agency Action #7, to additionally consider efficiency goals that are more reflective of priorities for infrastructure investment (i.e. velocity, throughput, reliability and congestion relief) that are well understood to increase the efficiency of the freight system. In addition, the Action Plan should be clear that, like the zero-emission equipment target, the efficiency target is an aspirational goal.

We look forward to reviewing the final Action Plan when it is released, and working collaboratively with you and your agency to implement a plan that fulfills the mandate of the Executive Order.

Sincerely,

Agricultural Council of California
American Trucking Associations
Association of American Railroads
BizFed
California Association of Port Authorities
California Business Properties Association
California Business Roundtable
California Citrus Mutual
California Chamber of Commerce
California Cotton Ginners Association
California Cotton Growers Association
California Farm Bureau Federation
California Fresh Fruit Association
California Independent Oil Marketers Association
California League of Food Processors
California Manufacturers and Technology Association
California Refuse and Recycling Council
California Retailers Association
California Trucking Association
Coalition for Responsible Transportation
Construction Industry Air Quality Coalition
Chemical Industry Council of California
Engineering Contractors' Association
Foreign Trade Association
Harbor Trucking Association

Home Depot
Inland Empire Economic Partnership
International Warehouse Logistics Association
Los Angeles Area Chamber of Commerce
Maersk
NAIOP - So Cal Chapter
Orange County Business Council
Owner Operator Independent Drivers Association
Pacific Merchant Shipping Association
San Gabriel Valley Economic Partnership
Southern California Contractors Association
Target
West Coast Lumber & Building Materials Association
Western Agricultural Processors Association
Western Wood Preservers Institute